

REGULAR MONTHLY MEETING OF BERKELEY COUNTY COUNCIL

October 26, 2009

The **Regular Monthly Meeting of Berkeley County Council** was held on Monday, **October 26, 2009**, at 6:59 p.m., in the Assembly Room of the Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina.

PRESENT: Mr. Daniel W. Davis, Supervisor, Chairman; Mr. Caldwell Pinckney, Jr., Council Member District No. 7, Vice Chairman; Mr. Phillip Farley, Council Member District No. 1; Mr. Timothy J. Callanan, Council Member District No. 2; Mr. Robert O. Call, Jr., Council Member District No. 3; Mrs. Cathy S. Davis, Council Member District No. 4; Mr. Steve C. Davis, Council Member District No. 8; Mrs. Nicole Scott Ewing, County Attorney; and Ms. Barbara B. Austin, Clerk of County Council. Mr. Dennis L. Fish, Council Member District No. 5, and Mr. Jack H. Schurlknight, Council Member District No. 6, were excused from this meeting.

In accordance with the Freedom of Information Act, the electronic and print media were duly notified.

During periods of discussion and/or presentations, minutes are typically condensed.

CALL TO ORDER

Chairman Daniel Davis called the meeting to order.

APPROVAL OF MINUTES

Chairman Daniel Davis asked for approval of minutes from a Special Meeting of Council held September 14, 2009; Public Hearings for Bills Numbered 09-33, 09-34, 09-35, 09-36 and 09-39, and a Regular Meeting of Council held September 28, 2009.

Main Motion:

It was moved by Council Member Callanan and seconded by Council Member Cathy Davis to **approve the minutes** as presented.

Chairman Daniel Davis stated that he wanted to make recommendations to amend the minutes of the Finance Meeting held September 28, 2009. At that meeting, there was a good bit of discussion with regard to medical insurance coverage. Due to the need for those minutes to be technically correct, Chairman Daniel Davis referred to a letter Ms. Leonitta Turner, Human Resource Director, distributed to Committee Members, which defined what those benefits would

be, which was what Committee Members voted for. Chairman Daniel Davis recommended that the Finance Meeting minutes of September 28th reflect that information exactly.

Chairman Daniel Davis continued and referred to the Regular Minutes of Council held September 28, 2009, Page 7, Reports from Standing Committees, Committee on Finance, Item a, Benefits Update. Chairman Daniel Davis recommended that the motion in these minutes be amended to state, **“pay the Berkeley County employer state rate, plus \$100.00”**, rather than as currently stated to **“pay the employer benefit state rate, plus \$100.00.”**

Chairman Daniel Davis reiterated his reference to the letter Ms. Turner distributed to Committee Members during the Finance Meeting held September 28th. The benefits that the Finance Committee Members voted for were contained in that letter from Ms. Turner.

Council Member Farley questioned if the reference was with regard to Option #3.

Chairman Daniel Davis responded there to be recommendations on all the options.

Chairman Daniel Davis questioned, “Can I read these to ...”

Council Member Callanan responded, “That makes sense.”

Ms. Barbara Austin stated, “The problem is – this is a correction to a motion that a Council Member made.”

Chairman Daniel Davis stated, “I am recommending that we change them. I’m not making the motion.”

Council Member Cathy Davis questioned, “How can we do that?”

Chairman Daniel Davis responded, “I’m asking one of you to make the motion.”

Council Member Cathy Davis questioned, “No; but how can we change something?”

Chairman Daniel Davis responded, “Once again, I am not recommending the Finance Committee minutes be changed. These are the full Council Meeting minutes. There is just one change that I have for the full Council Meeting minutes, but in order to be completely accurate, I think, at some point, we need to just clarify the Finance Committee minutes.”

Council Member Callanan questioned what was currently stated in the Finance Minutes.

Ms. Nita Turner responded, “One of the things that I wanted to try to clarify, because Barbara’s group does an excellent job of writing the minutes and putting them together. In some places, especially where it says ‘employer’ or ‘employee’, and exactly what the exact fees are, I want to make sure that those are clear, so that in the future, we know exactly what the 2009 and 2010 rates were.”

Council Member Callanan stated, “I know what my intention was (as Committee Member Callanan was the one to make the motion to approve during the Finance Meeting of September 28, 2009). My intention is what you are stating, that it was the employer rate – the employer benefit, plus \$100.00.”

Ms. Turner responded, “It should be employer state rate. Putting the words ‘state rate’ is important, because the state is the one who determines what we, as the County, have to pay.”

Council Member Callanan responded, “OK; that was obviously my intention, so I will make the motion to amend it. That is fine. I think it is an issue of ...”

Ms. Turner stated, “It is an issue of just clarification, and I think it is good to have clarification on the books, because you never know what we need in the future.”

Council Member Callanan stated, “Correct; just so I know, based on rules, this does not actually change my motion. It’s just adding a word that I should have put in there to begin with, and I didn’t. So, all we have to do is correct both minutes?”

Ms. Austin responded, “The correction, now, is for the Regular Meeting, not the Finance Committee Meeting.”

Council Member Callanan responded, “Right; and then when we go to the Finance Meeting, we will have to do the same.”

Chairman Daniel Davis responded, “Yes; they should be changed, and they can be amended. That is why I pointed out the letter. What you intended to make a motion on was the facts as contained in the letter from Ms. Turner. That’s what these reflect, these changes.”

Amendment to Main Motion:

It was moved by Council Member Callanan and seconded by Council Member Steve Davis to **amend** the Regular Council Meeting minutes of September 28, 2009, as stated by deletion of “to pay the employer benefit state rate, plus \$100.00”, and insertion of “**to pay the Berkeley County employer state rate, plus \$100.00 for each employee for the 2010 benefit year.** The motion passed by unanimous voice vote of Council.

Amended Motion Now Becomes Main Motion:

It was moved by Council Member Callanan and seconded by Council Member Steve Davis to **approve** the minutes of the Regular Meeting of Council held September 28, 2009, as **amended**, with the **deletion** of “to pay the employer benefit state rate, plus \$100.00”, and the **insertion** of “to pay the Berkeley County employer state rate, plus \$100.00 for each employee for the 2010 benefit year”. The motion passed by unanimous voice vote of Council.

In conclusion, Chairman Daniel Davis recommended that Council Members also amend the minutes of the Finance Committee Meeting held September 28, 2009 to reflect a motion containing the same clarification when the Committee met again on November 23rd.

PUBLIC DISCUSSION

Mr. Kenneth Sellers, residing at 119 Tall Pines Road, Tall Pines Subdivision in Ladson, addressed Council and stated his concerns with regard to **Bill No. 09-42**. Mr. Sellers, a resident of Tall Pines since 1989, stated that the property requested for rezoning at 101 Tall Pines Road had always appeared to be in use and never remained vacant for any period of time. Mr. Sellers stated that petitions of numerous pages reflected individuals in opposition to this rezoning, as well as 94 percent of members of the Tall Pines Homeowners Association. In conclusion, Mr. Sellers stated there to be an entrance into the subdivision with an island at 101 Tall Pines Road, which would create problems with a lot of traffic if rezoning was allowed. The uses allowed under the property's current zoning appeared to be sufficient for many years, and Mr. Sellers opposed any rezoning of 101 Tall Pines Road.

Mr. David Wenger, residing at 204 Limber Court, Tall Pines Subdivision in Ladson, addressed Council and stated that he and his wife were the owners of 101 Tall Pines Road (**Bill No. 09-42**). Mr. Wenger stated that the building was designed and built as a non-residence in 1973. It was a commercial building for almost 25 years and recorded as such until the County's Zoning Ordinance was adopted. It was then improperly zoned as a residence, and there was no public hearing or public discussion prior to assigning it as residential. Mr. Wenger stated that it was not a residence when he purchased it in 1977, as it had no kitchen or full bath. Mr. Wenger stated that it was his understanding that a couple months ago, "this body" approved changing the rezoning request to PD, under the condition that he meet with officers of the Homeowners Association and come to a conclusion of what proposed uses the building could be used for. Mr. Wenger stated that he tried to make that happen for over two months, and it just did not happen. In conclusion, Mr. Wenger stated that he followed the procedures homeowners, the Planning Commission and County Council had asked of him. Mr. Wenger asked Council to look at the facts and consider his request for rezoning, and do the right thing.

Mr. Paul Helms, residing at 1015 Highland Pines Road, Tall Pines Subdivision in Ladson, addressed Council and stated his concerns with regard to **Bill No. 09-42**. Mr. Helms stated that a rezoning request for 101 Tall Pines Road was brought before Council in 2001. At that time, it was denied by Council. Mr. Helms stated a Homeowners Association Meeting was held on October 13th, and Mr. Wenger and his wife were present. During that meeting, homeowners were present, and a vote was taken in reference to the rezoning of 101 Tall Pines Road. Nine residents voted in favor of Mr. Wenger's rezoning request, and twenty-eight residents voted against that rezoning. In conclusion, Mr. Helms stated that numerous petitions reflecting opposition to Mr. Wenger's rezoning request were signed by approximately 160–170 homeowners living in Tall Pines, and the petitions were given to Council Members. There have been many residents of Tall Pines to attend Council Meetings in opposition to this rezoning also.

Ms. Kim Dalbec, residing at 177 Tall Pines Road, Tall Pines Subdivision in Ladson, addressed Council and stated her concerns regarding **Bill No. 09-42**. Ms. Dalbec stated that she and other residents understood that 101 Tall Pines Road was zoned residential, and Mr. Wenger was not being asked to reclassify the property as residential, as that would not be feasible. Ms. Dalbec and the residents she represented this night were asking that 101 Tall Pines Road remain zoned as residential. Ms. Dalbec stated there to be approximately 750 homes in Tall Pines, and it was unknown the number of children or students living in those homes. The general area where 101 Tall Pines Road is located is also a bus stop. Ms. Dalbec stated this to be a safety concern for Council to consider prior to making a decision to rezone. Elementary, middle and high school students were at that bus stop various times during the day. In conclusion, Ms. Dalbec stated that residents understood the fact that this property was being used as commercial, and they were simply asking the zoning to remain residential, in order for uses at that location to be limited to what would be allowed under residential.

Mr. Gerald Stickney, residing at 114 Ponderosa Drive, Tall Pines Subdivision in Ladson, addressed Council and stated his justification for **Bill No. 09-42**. Mr. Stickney stated that it was his understanding that when the Wenger's first requested to rezone their property, they "backed down", because of the opposition that their building would possibly be used for a real estate office or counseling for drug addictions. Since that time, the Wenger's have requested a rezoning to PD (Planned Development). Mr. Stickney stated that PD would allow the community an opportunity to have a say as to what that building could be used for. This would have worked with the Wenger's, as well as with the community. Mr. Stickney stated that he attended the last Homeowners Association meeting. There were approximately 36-37 residents in attendance and able to vote, versus only 15-20 residents normally in attendance to represent the community. The vote that took place that evening was only a vote of people in attendance, and voting could not justify the feelings of the entire community. Mr. Stickney stated that twenty-eight residents voted against rezoning, and nine voted in favor of it. This number of votes did not represent a community of 750 homes. Those petitions that were drawn up and signed by individuals were probably reflecting the original request that would allow for drug counseling. In conclusion, Mr. Stickney stated that since the Wenger's were now requesting a rezoning to PD, it would only be fair to circulate petitions reflecting the new rezoning request to PD.

Ms. Susan Kavanaugh, residing at 209 Loblolly Circle, Tall Pines Subdivision in Ladson, addressed Council and stated her opposition to **Bill No. 09-42**. Ms. Kavanaugh stated that correct procedure was carried out for the Homeowners Association Meeting, at which time a vote was taken with regard to Mr. Wenger's rezoning request. Residents were advised of the rezoning request, and signs were posted at all three entrances into Tall Pines advising residents of the meeting. This was also done for the previous meeting. There were many inquiries regarding this matter, and the President of the Homeowners Association received many telephone calls also. The President did provide Council Member Cathy Davis a letter addressed to Council Member Fish, which expressed feedback from residents with regard to Mr. Wenger's rezoning request. Ms. Kavanaugh stated there to be new petitions collected, which did reflect Mr. Wenger's request for rezoning to PD. These petitions were not the same petitions that contained 168 signatures, which were originally circulated to reflect a rezoning request to General Commercial. In conclusion, Ms. Kavanaugh stated that Council Member Fish attended

the meetings, and he was in compliance with the Homeowners Association that this vote was performed correctly. The vote resulted in an approximate ninety-four percent in opposition and six percent in favor of a rezoning to PD.

EXECUTIVE SESSION

It was moved by Council Member Callanan and seconded by Council Member Cathy Davis to enter into Executive Session to discuss matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries or other businesses in the area served by the County; discussions of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property; the receipt of legal advice, where the legal advice relates to a pending, threatened or potential claim; other matters covered by the attorney/client privilege; settlement of a legal claim or the position of the County in other adversary situations involving the assertion against the County of a claim. The motion passed by unanimous voice vote of Council.

Council entered into Executive Session at 7:23 p.m.

Council returned to Regular Session at 7:51 p.m.

Mrs. Nicole Scott Ewing, County Attorney, stated that Council entered into Executive Session for reasons stated in the motion, and no formal action was taken.

CHAIRMAN OF COUNTY COUNCIL

Chairman Daniel Davis stated there to be a good bit of discussion recently with regard to the one-cent sales tax for road improvements. There was an editorial in the paper the other day which reflected frustration, because Council voted on it in November, and there had not been a lot of activity or at least some items taken care of that were publicized. Last week, the County received its first check of funds from sales tax collections. The referendum was passed in November 2008, but the one-cent sales tax did not go into effect until May 2009. With the one-cent sales tax extending through seven years, the County had to project the amount of funds which would be brought into the County with the tax. Experts were used to calculate this projection, in order for the County to know what type improvements could be accomplished with projected funds. The first check received by the County was similar to the projection of funds anticipated. Projections were performed a couple years ago in better times before the recession. With the slowdown in the economy, the County was concerned that revenues would be different from what was projected. The first check received was "on pace", which would reflect that when the economy is at "full force", the County will be in "good shape". Things are now beginning to happen on 17-A, as trees are beginning to be cleared. A lot of projects were in process as far as design, and citizens should begin to see more activity soon.

Chairman Daniel Davis continued and stated that Google was planning a community event. Last Saturday, Alcoa had a community event at their location, inviting everyone in

Berkeley County to participate. Google's first community event will be held Saturday, November 14th, at Cypress Gardens. As part of that event, Google has offered to pay for discounted coupons to Cypress Gardens. There will be lots of things for children (i.e., jumping castles, fishing in the swamp), live music and food sales. There are 1,000 discounted coupons, and they will be distributed to anyone interested in attending. Coupons will also be available at all libraries in Berkeley County. This will become a regular event that Google will sponsor.

THIRD READING

“BILL NO. 09-30, AN ORDINANCE AUTHORIZING THE AMENDED AND RESTATED FEE-IN-LIEU OF TAX AGREEMENT (THE ‘AMENDED AND RESTATED FEE AGREEMENT’) BY AND BETWEEN BERKELEY COUNTY, SOUTH CAROLINA, AND HW BERKELEY PHASE II-A, LLC, HW BERKELEY PHASE II-B, LLC, HW BERKELEY PHASE II-C, LLC, HLIT IV SC-1, LP, AND HLIT IV SC-2, LP, (THE ‘PARTIES’) AND THE BIFURCATION THEREOF, THE RESULT OF WHICH SHALL BE TWO SEPARATE AMENDED AND RESTATED FEE-IN-LIEU OF TAX AGREEMENTS TITLED AS FOLLOWS: (1) THE AMENDED AND RESTATED FEE-IN-LIEU OF TAX AGREEMENT BY AND BETWEEN BERKELEY COUNTY, SOUTH CAROLINA, AND HW BERKELEY PHASE II-A, LLC, HW BERKELEY PHASE II-B, LLC, AND HW BERKELEY PHASE II-C, LLC (‘PHASE TWO’); AND (2) THE AMENDED AND RESTATED FEE-IN-LIEU OF TAX AGREEMENT BY AND BETWEEN BERKELEY COUNTY, SOUTH CAROLINA, AND HLIT IV SC-1, LP, AND HLIT IV SC-2, LP (‘PHASE ONE’), IN CONSIDERATION OF ADDITIONAL ON-GOING INVESTMENT BY THE COMPANY; AND OTHER MATTERS RELATING TO THE FOREGOING.”

It was moved by Council Member Steve Davis and seconded by Council Member Callanan to approve **Bill No. 09-30** for **Third Reading**. The motion passed by unanimous voice vote of Council. (A copy of Ordinance No. 09-10-51 is attached to these minutes.)

“BILL NO. 09-38, AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, BERKELEY COUNTY, SOUTH CAROLINA, REGARDING THE REGULATION OF THE USE OF PUBLIC AND PRIVATE WATER DISTRIBUTION SYSTEMS.”

It was moved by Council Member Steve Davis and seconded by Council Member Callanan to **approve Bill Number 09-38** for **Third Reading**. The motion passed by unanimous voice vote of Council. (A copy of Ordinance No. 09-10-52 is attached to these minutes.)

“BILL NO. 09-40, AN ORDINANCE TO AMEND ORDINANCE NO. 97-04-18 TO ALLOW FOR CHANGES IN THE PREFERENCE THAT IS GIVEN TO BUSINESSES IN BERKELEY COUNTY, THE STATE OF SOUTH CAROLINA, IN THE AWARDED OF COUNTY CONTRACTS.”

Chairman Daniel Davis stated that **Bill No. 09-40** would be held to allow for further discussion of details within that proposed ordinance.

Berkeley County Council Rules allow all bills to be given Second Reading by one motion as a collective group. Any member may object to a particular bill, and it shall be separated from the collective group and handled by a separate motion.

SECOND READING

“BILL NO. 09-41, AN ORDINANCE TO AMEND AND CLARIFY CERTAIN SECTIONS OF ORDINANCE NO. 01-08-35, ADOPTED AUGUST 27, 2001, ZONING AND DEVELOPMENT STANDARDS ORDINANCE, “BERKELEY COUNTY ZONING ORDINANCE” AND AMENDING ORDINANCES NUMBERED 02-08-33, 02-12-58, 04-11-68, 05-03-08, 05-08-58, 06-09-63, 06-12-92 AND 07-07-43, IN REGARD TO THE PROPOSED CREATION OF AN ARTERIAL ROADS OVERLAY DISTRICT.”

“BILL NO. 09-43, AN ORDINANCE AMENDING ORDINANCE NO. 09-07-35 PROVIDING FOR THE FISCAL YEAR BEGINNING JULY 1, 2009, AND ENDING JUNE 30, 2010, FOR THE TALL PINES SPECIAL TAX DISTRICT REVENUES AND EXPENDITURES.”

“BILL NO. 09-44, AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BETWEEN BERKELEY COUNTY, SOUTH CAROLINA, AND JOSEPH T. RYERSON & SON, INC.; AND MATTERS RELATING THERETO.”

It was moved by Council Member Steve Davis and seconded by Council Member Call to approve Bills Numbered 09-41, 09-43 and 09-44 for Second Reading by one motion as a collective group. The motion passed by unanimous voice vote of Council.

“BILL NO. 09-42, AN ORDINANCE TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARD TO A RECLASSIFICATION OF APPROVED USES FOR TMS #242-03-03-002.”
(David and Joanne Wenger)

It was moved by Council Member Cathy Davis and seconded by Council Member Farley to deny Bill No. 09-42 for Second Reading.

Council Member Cathy Davis stated that she had hoped this matter would not end this way, but for an agreement to be reached instead. Council Member Fish and Council Member Cathy Davis had talked to homeowners of Tall Pines and requested their opinions with regard to this matter. Both Council Members recommended a meeting be held for homeowners to attend, in order for a vote to be taken. A meeting was held, a vote was taken, and the vote resulted in a denial with regard to that request for rezoning within Bill No. 09-42.

The motion passed by majority voice vote of Council. Council Member Call voted, “Nay.”

FIRST READING

Chairman Daniel Davis stated there were six bills for First Reading. *(Bills for First Reading are not discussed or voted upon. The bills are read into the record by title only and, thereafter, sent to the proper Committee for further consideration.)*

“BILL NO. 09-45, AN ORDINANCE TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARD TO A RECLASSIFICATION OF APPROVED USES FOR TMS #123-00-02-030.”
(John & Miriam Mitchum)

“BILL NO. 09-46, AN ORDINANCE TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARD TO A RECLASSIFICATION OF APPROVED USES FOR TMS #142-04-02-048.”
(Caroline Gethers)

“BILL NO. 09-47, AN ORDINANCE TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARD TO A RECLASSIFICATION OF APPROVED USES FOR TMS #068-04-03-021.”
(Norman Sanders)

“BILL NO. 09-48, AN ORDINANCE TO AMEND THE AGREEMENT FOR DEVELOPMENT OF A JOINT COUNTY INDUSTRIAL PARK, EXECUTED ON APRIL 24, 1995, BY AND AMONG BERKELEY COUNTY, SOUTH CAROLINA, AND WILLIAMSBURG COUNTY, SOUTH CAROLINA, PROVIDING FOR THE DEVELOPMENT OF A JOINTLY OWNED AND OPERATED INDUSTRIAL/BUSINESS PARK SO AS TO INCLUDE ADDITIONAL PROPERTY IN BOTH BERKELEY COUNTY AND WILLIAMSBURG COUNTY AS PART OF THE JOINT COUNTY INDUSTRIAL PARK AND OTHER MATTERS RELATED THERETO.”

“BILL NO. 09-49, AN ORDINANCE PROVIDING FOR THE TRANSFER OF AUTHORITY FOR CONDUCTING MUNICIPAL ELECTIONS IN THE CITY OF GOOSE CREEK TO BERKELEY COUNTY VOTER REGISTRATION AND ELECTION COMMISSION.”

“BILL NO. 09-50, AN ORDINANCE TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARD TO A RECLASSIFICATION OF APPROVED USES FOR TMS #257-00-00-01.”
(County Council on behalf of the heirs of Mitchell Hardy)

RESOLUTIONS

“RESOLUTION PROVIDING FOR THE TRANSFER OF FUNDS IN THE 2009-2010 BERKELEY COUNTY BUDGET FOR COUNTY PURPOSES OTHER THAN AS SPECIFIED IN SAID BUDGET.”

It was moved by Council Member Steve Davis and seconded by Council Member Pinckney to **approve the resolution** providing for a **transfer of funds** in the **2009-2010 Budget for Berkeley County**. The motion passed by unanimous voice vote of Council. (A copy of Resolution No. 09-36 is attached to these minutes.)

“RESOLUTION IN SUPPORT OF THE ISSUANCE BY THE SOUTH CAROLINA JOBS ECONOMIC DEVELOPMENT AUTHORITY OF ITS ECONOMIC DEVELOPMENT REVENUE BONDS (GOODWILL INDUSTRIES OF LOWER SOUTH CAROLINA, INC., PROJECT), SERIES 2009, PURSUANT TO THE PROVISIONS OF TITLE 41, CHAPTER 43, OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$25,500,000.”

It was moved by Council Member Steve Davis and seconded by Council Member Callanan to **approve the resolution** supporting issuance by the South Carolina Jobs Economic Development Authority of its Economic Development Revenue Bonds (**Goodwill Industries of Lower South Carolina, Inc., Project**), Series 2009, in an amount not to exceed \$25,500,000. The motion passed by unanimous voice vote of Council. (A copy of Resolution No. 09-37 is attached to these minutes.)

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“RESOLUTION PROCLAIMING THE WEEK OF OCTOBER 23-31, 2009 AS NATIONAL RED RIBBON WEEK IN BERKELEY COUNTY.”

It was moved by Council Member Steve Davis and seconded by Council Member Callanan to **approve the resolution** proclaiming the week of October 23-31, 2009 as **National Red Ribbon Week** in Berkeley County. The motion passed by unanimous voice vote of Council. (A copy of Resolution No. 09-38 is attached to these minutes.)

“RESOLUTION GRANTING EXTRA HOLIDAY LEAVE IN RECOGNITION OF THE 2009 HOLIDAY SEASON.”

It was moved by Council Member Cathy Davis and seconded by Council Member Farley to **approve the resolution** granting extra holiday leave in recognition of the **2009 Holiday Season**. The motion passed by unanimous voice vote of Council. (A copy of Resolution No. 09-39 is attached to these minutes.)

“RESOLUTION DETERMINING THAT PINE TREE CABLEVISION ASSOCIATES IS NOT IN COMPLIANCE WITH THE BERKELEY COUNTY CABLE TELEVISION ORDINANCE.”

It was moved by Council Member Steve Davis and seconded by Council Member Callanan to **approve the resolution** determining **Pine Tree Cablevision Associates** not to be in compliance with Berkeley County’s Cable Television Ordinance. The motion passed by

unanimous voice vote of Council. (A copy of Resolution No. 09-40 is attached to these minutes.)

“RESOLUTION APPROVING THE ASSIGNMENT OF EXISTING FEE-IN-LIEU OF TAX ARRANGEMENTS WITH BERKELEY COUNTY BY LANXESS CORPORATION TO COOPER RIVER PARTNERS, LLC, OR ITS PERMITTED DESIGNEE.”

It was moved by Council Member Pinckney and seconded by Council Member Steve Davis to **approve the resolution** approving the assignment of existing **fee-in-lieu of tax** arrangements with **Lanxess Corporation** to Cooper River Partners, LLC. The motion passed by unanimous voice vote of Council. (A copy of Resolution No. 09-41 is attached to these minutes.)

PROCLAMATION

“PROCLAMATION FOR NATIONAL FRIENDS OF LIBRARIES WEEK.”

It was moved by Council Member Farley and seconded by Council Member Callanan to **approve the proclamation** for **National Friends of Libraries Week**. The motion passed by unanimous voice vote of Council.

REPORTS FROM STANDING COMMITTEES

Committee on FINANCE

Council Member, Mr. Jack H. Schurlknight, Chairman

Acting Chairman Pinckney reported that the Committee on Finance met October 12th and earlier this night. All matters before the Committee were addressed earlier on this night's agenda.

(That concluded Chairman Schurlknight's report.)

Committee on LAND USE

Council Member, Mr. Phillip Farley, Chairman

Chairman Farley reported that the Committee on Land Use met October 12th. Many matters before the Committee were addressed.

Approval for Extension of Time in Filing for Agricultural Use with 2008 Assessment of TMS #240-00-01-005 and #240-00-01-011 [Ms. Mary Alice Knight]

On recommendation of the Committee, Chairman Farley moved to **approve an extension of time** in filing for Agricultural Use for the 2008 assessment of **TMS #240-00-01-005 and #240-00-01-011**. (No second required.)

The motion passed by unanimous voice vote of Council.

(That concluded Chairman Farley's report.)

Committee on PUBLIC WORKS AND PURCHASING
Council Member, Mr. Robert O. Call, Jr., Chairman

Chairman Call reported that the Committee on Public Works and Purchasing met October 12th. Many items before the Committee were addressed earlier on this night's agenda.

a. Adoption of Guidelines for Selection of Local Street Resurfacing Projects

On recommendation of the Committee, Chairman Call moved to **approve adoption** of the guidelines for selection of local street resurfacing projects, as presented, with regard to the Local Sales Tax Program. (No second required.)

The motion passed by unanimous voice vote of Council.

b. Vendor Selection for CMMS Implementation

On recommendation of the Committee, Chairman Call moved to **award the contract** for the implementation of a computerized maintenance management system for Berkeley County Water and Sanitation, in the amount of \$350,000.00, an asset management system to monitor equipment and pump stations, with no additional funds required. (No second required.)

The motion passed by unanimous voice vote of Council.

(That concluded Chairman Call's report.)

Committee on JUSTICE AND PUBLIC SAFETY
Council Member, Steve C. Davis, Chairman

Chairman Steve Davis reported that the Committee on Justice and Public Safety met October 12th and earlier this night.

a. Approval to Purchase Upgrade for Computer-Aided Dispatch System

On recommendation of the Committee, Chairman Steve Davis moved to **approve the purchase** of an upgrade to the computer-aided dispatch system for the Communications Department, estimated to cost \$276,276.00, with funding from E-911 funds. (No second required.)

The motion passed by unanimous voice vote of Council.

b. Approval for Sole Source of CAD System from Interact 911 – AT&T

On recommendation of the Committee, Chairman Steve Davis moved to **approve** the sole **source purchase** of a computer-aided dispatch system from Interact 911–AT&T for the Communications Department. (No second required.)

The motion passed by unanimous voice vote of Council.

c. Acceptance of EMS Grant-in-Aid to Purchase GPS Systems and a Ruggedized Computer for EMS Department

On recommendation of the Committee, Chairman Steve Davis moved to **approve acceptance** of an EMS Grant-in-Aid, in the amount of \$25,036.90, to purchase GPS Systems and a ruggedized computer for the EMS Department, with the required \$1,457.19 in matching funds to come from the current EMS Budget. No additional funds would be required. (No second required.)

The motion passed by unanimous voice vote of Council.

(That concluded Chairman Steve Davis' report.)

Committee on WATER AND SANITATION
Council Member, Mr. Timothy J. Callanan, Chairman

Chairman Callanan reported that the Committee on Water and Sanitation met October 12th. All matters were addressed earlier on this night's agenda.

(That concluded Chairman Callanan's report.)

Committee on PLANNING AND DEVELOPMENT
Council Member, Mrs. Cathy S. Davis, Chairman

No report.

Committee on COMMUNITY SERVICES
Council Member, Mr. Caldwell Pinckney, Jr., Chairman

Chairman Pinckney reported that the Committee on Community Services met October 12th and earlier this night.

Acceptance of American Recovery and Reinvestment Act Grant for Library System

On recommendation of the Committee, Chairman Pinckney moved to **approve acceptance** of an American Recovery and Reinvestment Act Grant, in the amount of \$59,913.00, for the Berkeley County Library System. (No second required.)

The motion passed by unanimous voice vote of Council.

(That concluded Chairman Pinckney's report.)

Committee on HUMAN SERVICES
Council Member, Mr. Dennis L. Fish, Chairman

No report.

NOMINATIONS FOR MEMBERSHIP ON BOARDS, COMMISSIONS, ETC.

Council Member Call nominated Mr. Oliver Buckles (Cultural Interest), Mr. Cohen Gaskins (Hospitality/Lodging), Ms. Carol Wiggins (Hospitality/Lodging), Mr. Kevin Davis (Hospitality/Lodging) and Mr. Johnny Fort for re-appointments to the Accommodations Tax Advisory Committee. Council Member Call continued and stated that Mr. Fort had been serving in an expired capacity since December of 2007, and this would be "just a little house cleaning".

It was moved by Council Member Pinckney and seconded by Council Member Callanan to **approve nominations** to the Accommodations Tax Advisory Committee. The motion passed by unanimous voice vote of Council.

CORRESPONDENCE

UNFINISHED BUSINESS

NEW BUSINESS

It was moved by Council Member Farley and seconded by Council Member Pinckney to **approve** the proposed **consent order** in the matter of Robert Joseph Mims, *etal*, vs. Berkeley County, Case Number 2008-CP-08-911, and authorize the County Supervisor to sign that consent order on Berkeley County's behalf. The motion passed by unanimous voice vote of Council.

ANNOUNCEMENTS

The **November 2009 Regular Meeting of Berkeley County Council** will be held on **Monday, November 23, 2009**, immediately following Public Hearings and other Committee Meetings at **6:00 p.m.**, in the **Assembly Room** of the **Berkeley County Administration Building**, 1003 Highway 52, Moncks Corner, South Carolina.

ADJOURNMENT

It was moved by Council Member Farley and seconded by Council Member Cathy Davis to adjourn the Regular Meeting of County Council. The motion passed by unanimous voice vote of Council.

Meeting adjourned at 8:12 p.m., for the execution of documents by Council.

PUBLIC DISCUSSION

Public Discussion commenced at 8:23 p.m.

Mr. Al Jenkins, owner of a business located at 931 Old Back River Road, Goose Creek, addressed Council and announced that on Saturday, November 7th, at 10:00 a.m., there would be a service held at Greater Mt. Zion AME Church, located at 464 High Hall Road. This service would honor all Veterans of all wars. Mr. Jenkins stated that the occasion would also recognize two of the United States Colored Troops (USCT). Both fought in the Civil War and were buried in the Berkeley County Area. Through Congressman Henry Brown's assistance, official USCT tombstones had been secured, as both Veterans have been buried in unmarked graves since the early 1920's. One Veteran is in the Willowbrook Subdivision and the second Veteran is on Daniel's Island. In conclusion, Mr. Jenkins stated that all those interested in attending would meet at Mt. Zion and then carpool to both cemeteries to unveil the tombstones. The 54 Massachusetts re-enactors would handle the service. Mr. Jenkins extended an invitation to Council and all Veterans to attend.

Public Discussion concluded at 8:25 p.m.

Barbara B. Austin, CCC
Clerk of Council

November 24, 2009
Date Approved

THE MONTHLY MEETING OF BERKELEY COUNTY COUNCIL is scheduled to be held on **MONDAY OCTOBER 26, 2009**, following Public Hearings and the meetings of certain Committees at 6:00 p.m., in the **ASSEMBLY ROOM, BERKELEY COUNTY ADMINISTRATION BUILDING, 1003 HIGHWAY 52, MONCK'S CORNER, S. C.**

CALL TO ORDER

APPROVAL OF MINUTES:

| | |
|--|---------------------------|
| Special Meeting of Council | September 14, 2009 |
| Public Hearings: Bills Numbered: 09-33, 09-34, 09-35 and 09-36 | September 28, 2009 |
| Public Hearing: Bill Numbered: 09-39, Pig Center, LLC, to JL Woode Ltd., LLC. | September 28, 2009 |
| Regular Council Meeting | September 28, 2009 |

PUBLIC DISCUSSION - Requests to be heard must be made prior to call to Order and comments must be limited to Agenda items only.

COMMENTS ON ANY PUBLIC DISCUSSION ITEM WILL BE LIMITED TO THREE (3) MINUTES PER SPEAKER. (A TOTAL OF 30 MINUTES WILL BE ALLOTTED FOR THIS PUBLIC DISCUSSION PERIOD.)

EXECUTIVE SESSION to discuss matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries, or other businesses in the area served by the county; or discussions of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claim, or the position of the County in other adversary situations involving the assertion against the County of a claim.

CHAIRMAN OF COUNTY COUNCIL

THIRD READING:

1. Bill No. 09-30, an ordinance authorizing the amended and restated Fee In lieu of Tax Agreement (the "amended and restated fee agreement") by and between Berkeley County, South Carolina and **HW BERKELEY PHASE II-A, LLC, HW BERKELEY PHASE II-B, LLC, HW BERKELEY PHASE II-C, LLC, HLIT IV SC-1, L.P. AND HLIT IV SC-2, L.P.** (the "parties"), and the bifurcation thereof, the result of which shall be two separate amended and restated fee in lieu of tax agreements titled as follows: (1) the amended and restated fee in lieu of tax agreement by and between Berkeley County, South Carolina and **HW BERKELEY PHASE II-A, LLC, HW BERKELEY PHASE II-B, LLC AND HW BERKELEY PHASE II-C, LLC** ("phase two"); and (2) the amended and restated fee in lieu of tax agreement by and between Berkeley County, South Carolina and **HLIT IV SC-1, L.P. AND HLIT IV SC-2, L.P.**

(“phase one”), in consideration of additional on-going investment by the company; and other matters relating to the foregoing.

[Recommended by Committee on Finance]

2. Bill No. 09-38, an ordinance to amend the Code of Ordinances, Berkeley County, South Carolina, regarding the regulation of the use of public and private water distribution systems.

[Recommended by Committee on Water and Sanitation]

3. Bill No. 09-40, an ordinance to amend Ordinance No. 97-4-18 to allow for changes in the preference that is given to Berkeley County and South Carolina businesses in the awarding of county contracts.

[Recommended by Committee on Public Works and Purchasing]

SECOND READING:

1. Bill No. 09-41, an ordinance to amend and clarify certain sections of Ordinance Number 01-8-35, adopted August 27, 2001, Zoning and Development Standards Ordinance, “Berkeley County Zoning Ordinance” and amending Ordinances Numbered 02-08-33, 02-12-58, 04-11-68, 05-03-08, 05-08-58, 06-09-63, 06-12-92, and 07-07-43, in regard to the proposed creation of an Arterial Roads Overlay District.

[Recommended by Committee on Land Use]

2. Bill No. 09-42, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: David and Joanne Wenger, 101 Tall Pines Road, Ladson, TMS #242-03-03-002 (0.51 +/- acres), from R-1, Single Family Residential District to PD-OP/IP, Planned Development Office Park/Industrial Park District. Council District No. 5.

[Recommended by Committee on Land Use]

3. Bill No. 09-43, an ordinance amending Ordinance Number 09-07-35 providing for the fiscal year beginning July 1, 2009, and ending June 30, 2010, for the Tall Pines Special Tax District revenues and expenditures.

[Recommended by Committee on Finance]

4. Bill No. 09-44, an ordinance authorizing the execution and delivery of a Fee Agreement between Berkeley County, South Carolina and Joseph T. Ryerson & Son, Inc.; and matters relating thereto.

[Recommended by Committee on Finance]

FIRST READING:

1. Bill No. 09-45, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: John & Miriam Mitchum, located 2,000 +/- L.F.

from the intersection of N. Highway 52 and 17A on North Highway 17A, Moncks Corner, **TMS #123-00-02-030** (3.0 Acres), **from GC, General Commercial District to F-1, Agricultural District**. Council District No. 8.

[Recommended by Committee on Land Use]

2. Bill No. 09-46, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Caroline Gethers** for Heirs of Caroline Gethers, 307 N. Live Oak Drive, Moncks Corner, **TMS #142-04-02-048** (1.65 acres) **from GC, General Commercial District to F-1, Agricultural District**. Council District No. 8.

[Recommended by Committee on Land Use]

3. Bill No. 09-47, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Norman Sanders** for First Citizens Bank & Trust Co, Inc., 909 Black Oak Road, Bonneau, Portion of **TMS #068-04-03-021** (0.1864 acre) **from R-2, Manufactured Residential District to GC, General Commercial District**. Council District No. 6.

[Recommended by Committee on Land Use]

4. Bill No. 09-48, an ordinance to amend the agreement for **Development of a Joint County Industrial Park** executed on April 24, 1995, by and among **Berkeley County, South Carolina and Williamsburg County, South Carolina**, providing for the Development of a jointly owned and operated Industrial/Business park so as to include additional property in both Berkeley County and Williamsburg County as part of the Joint County Industrial Park and other matters related thereto.

[Recommended by Committee on Finance]

5. Bill No. 09-49, an ordinance providing for the **transfer of authority** for **conducting municipal elections** in the City of Goose Creek to Berkeley County Voter Registration and Election Commission.

[Recommended by Committee on Community Services]

RESOLUTIONS:

1. RESOLUTION providing for the **Transfer of Funds** in the **2009-2010 Berkeley County Budget** for County purposes other than as specified in said Budget.

[Recommended by Committee on Finance]

2. RESOLUTION in support of the issuance by the South Carolina Jobs-Economic Development Authority of its Economic Development Revenue Bonds (**Goodwill Industries of Lower South Carolina, Inc. Project**) Series 2009, pursuant to the provisions of Title 41, Chapter 43, of the Code of Laws of South Carolina 1976, as amended, in the aggregate principal amount of not exceeding \$25,500,000.

[Recommended by Committee on Finance]

3. RESOLUTION proclaiming the week of **October 23 – 31, 2009**, as **National Red Ribbon Week in Berkeley County.**

[Recommended by Committee on Finance]

4. RESOLUTION granting extra **Holiday leave** in recognition of the **2009 Holiday Season.**

[Recommended by Committee on Finance]

5. RESOLUTION determining that **Pine Tree Cablevision Associates** is not in compliance with the Berkeley County Cable Television Ordinance.

[Recommended by Committee on Finance]

6. RESOLUTION approving the assignment of existing fee-in-lieu of tax arrangements with Berkeley County by **Lanxess Corporation** to **Cooper River Partners, LLC**, or its permitted designee

[Recommended by Committee on Finance]

PROCLAMATION:

1. Proclamation for National Friends of Libraries Week

[Recommended by Committee on Community Services]

REPORTS FROM STANDING COMMITTEES:

1. Committee on Finance.

Council Member, Mr. Jack H. Schurlknight, Chairman.

2. Committee on Land Use.

Council Member, Mr. Phillip Farley, Chairman.

- a.** Approval for an extension of time for filing for agricultural use for 2008 Assessment on **TMS #240-00-01-005 and 011.** [Ms. Mary Alice Knight]

3. Committee on Public Works and Purchasing.

Council Member, Mr. Robert O. Call, Jr., Chairman.

- a.** Adoption of guidelines for Selection of Local Street Resurfacing projects.
- b.** Vender Selection for CMMS Implementation.

4. Committee on Justice and Public Safety.

Council Member, Mr. Steve C. Davis, Chairman.

- a.** Approval to purchase Upgrade for Computer Aided Dispatch System.
- b.** Approval of sole source for CAD System from Interact 911/AT&T.

- c. Acceptance of EMS Grant-in-aid to purchase GPS systems and a ruggedized computer for EMS Department.
- 5. **Committee on Water and Sanitation.**
Council Member, Mr. Timothy J. Callanan, Chairman.
- 6. **Committee on Planning and Development.**
Council Member, Mrs. Cathy S. Davis, Chairman.
- 7. **Committee on Community Services.**
Council Member, Mr. Caldwell Pinckney, Jr., Chairman.
 - a. Acceptance of American Recovery and Reinvestment Act Grant for Library System.
- 8. **Committee on Human Services.**
Council Member, Mr. Dennis Fish, Chairman.

NOMINATIONS FOR MEMBERSHIP ON BOARDS, COMMISSIONS, ETC.

ACCOMMODATIONS TAX ADVISORY COMMITTEE

AERONAUTICS COMMISSION

BCD RURAL TRANSPORTATION MANAGEMENT ASSOCIATION

DEVON FOREST SPECIAL TAX DISTRICT

LIBRARY BOARD

MENTAL HEALTH BOARD

SANGAREE SPECIAL TAX DISTRICT

SPECIAL FIRE TAX DISTRICT ADVISORY COMMISSION

TALL PINES SPECIAL TAX DISTRICT

TAX ASSESSMENT REVIEW BOARD

ZONING APPEALS BOARD

CORRESPONDENCE

UNFINISHED BUSINESS

NEW BUSINESS

ANNOUNCEMENTS

THE NOVEMBER 2009, REGULAR MEETING OF BERKELEY COUNTY COUNCIL WILL BE HELD ON MONDAY NOVEMBER 23, 2009, IMMEDIATELY FOLLOWING PUBLIC HEARINGS AND OTHER COMMITTEE MEETINGS AT 6:00

**PM, IN THE ASSEMBLY ROOM OF THE BERKELEY COUNTY ADMINISTRATION
BUILDING, 1003 HIGHWAY 52, MONCKS CORNER, S. C.**

ADJOURNMENT

EXECUTION OF DOCUMENTS BY COUNCIL

PUBLIC DISCUSSION

**COMMENTS ON ANY PUBLIC DISCUSSION ITEM WILL BE LIMITED TO THREE
(3) MINUTES AND MAY BE ON ANY MATTER.**

October 21, 2009
S/Barbara B. Austin, CCC
Clerk of County Council